

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **March 8, 2005**

AGENDA ITEM NO.: 7

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Residential Rental Property Registration and Inspection Program**

RECOMMENDATION: Adopt an ordinance providing for the registration and inspection of residential rental properties within certain areas of the City.

SUMMARY: On September 28, 1993 City Council adopted a residential rental property inspection program for residential rental dwelling units located in the center City. The purpose of the program was to address problems with substandard residential rental dwelling units by providing for periodic inspection to ensure such units complied with the requirements of the Uniform Statewide Building Code (USBC). During the 2004 Legislative Session the General Assembly adopted a comprehensive residential rental property inspection statute. The statute authorizes localities to designate certain areas as a rental inspection district based upon findings that the residential rental dwelling units within that district are blighted or in need of inspection to prevent deterioration and maintain living conditions that are safe, decent, and sanitary. There must also be a need to protect the health, safety and welfare of occupants of residential rental dwelling units in the district. A locality-wide rental inspection district is not authorized. Localities are authorized to provide for the periodic inspection of the residential rental dwelling units within a rental inspection district. The areas of the City that may be designated as rental inspection districts are those areas that the City Council finds to have blighted residential rental dwelling units or be in need of inspection to prevent deterioration, taking into account the number, age, and condition of the residential rental dwelling units in the area. The Inspections Division believes that the City should continue its residential rental property inspection program and recommends that City Council adopt the attached ordinance in order that the City's residential rental property inspection program require registration of dwelling units and that they will comply with the requirements of the State Code.

Chris Bergquist, Property Maintenance Inspector, will be assigned the administration of this program, under the supervision of Wayne Craig, Property Maintenance Official. The Inspections Division will begin sending registration forms to owners of residential rental property in the Rental Inspection District. This is the same as the CDBG-Targeted Area in the center City. Our estimates indicate 3,350 units are to be registered. Originally, the City intended to charge a registration fee for each unit, however, State Code prohibits this. Instead, we propose charging a Code Enforcement (inspection) fee of \$50/unit. If code violations are cited and are not corrected within the required time frame, then a reinspection fee may be charged per unit as well. We propose at \$50/unit for the reinspection fee. State Code permits localities to charge up to \$50/unit for an inspection and up to \$50 for a re-inspection.

PRIOR ACTION(S):

January 24, 2005: City Council votes to hold public hearing on March 8<sup>th</sup> for consideration of a revised Residential Rental Property Inspection Ordinance.  
October 28, 2003: City Council amends the City's Residential Rental Property Inspection Ordinance.  
September 28, 1993: City Council adopts a Residential Rental Property Inspection Ordinance.

FISCAL IMPACT: An inspection fee of \$50/inspection is estimated to generate at least \$50,000 per year.

CONTACT(S): Walter C. Erwin, 455-3973  
Robert Drane 455-3899

ATTACHMENT(S):

An ordinance amending the City's residential rental property inspection program in order to allow for a property registration component and in order to comply with the State Code. A resolution enacting a code enforcement inspection/reinspection fee.

REVIEWED BY:

lkp

RESOLUTION:

BE IT RESOLVED That the Council of the City of Lynchburg hereby determines that the City Inspections Division shall charge an inspection fee of \$50 per inspection and \$50 per reinspection paid to cover the cost of the initial, follow-up, and periodic inspections of each residential rental dwelling unit located in those areas of the city covered by Article III, Residential Rental Dwelling Unit Inspections of the Code of the City of Lynchburg, 1981, as amended.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

037L

## ORDINANCE

AN ORDINANCE TO AMEND AND REENACT SECTIONS 11-161, 11-162, 11-163, 11-165, 11-166, 11-167, 11-168, 11-170, 11-171, AND 11-172 OF ARTICLE III, OF THE CODE OF THE CITY OF LYNCHBURG, 1981, TO AMEND AND REENACT THE CODE OF THE CITY OF LYNCHBURG, 1981, BY REPEALING SECTION 11-164 OF ARTICLE III, THE AMENDED AND REPEALED SECTIONS RELATING TO THE INSPECTION OF RESIDENTIAL RENTAL PROPERTY WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Article III, Sections 11-161, 11-162, 11-163, 11-165, 11-166, 11-167, 11-168, 11-170, 11-171, And 11-172 of the Code of the City of Lynchburg, 1981, be and the same are hereby amended and reenacted, and that Section 11-164 be is hereby repealed, as follows:

### **ARTICLE III. RESIDENTIAL RENTAL DWELLING UNIT PROPERTY REGISTRATION AND INSPECTIONS**

#### **Sec. 11-161. Purpose and intent.**

The city council finds that residential rental dwelling units ~~housing~~, when not the subject of regular inspections to ensure compliance with applicable occupancy, building maintenance, and property maintenance regulations, may become unsafe, a public nuisance, and unfit for human habitation. Residential rental dwelling units ~~are~~ ~~housing~~ is subject to overcrowding, structural deterioration, and an overall neglected appearance. These conditions can lead to a decline in neighborhood quality of life, neighborhood appearance, and the value of real estate. This ~~division~~ article is adopted to protect the public health, safety and welfare in ~~rental dwellings and~~ residential rental dwelling units located within those areas of the city determined by city council herein to be in need of a special program of ~~housing~~ inspections of residential rental dwelling units. This program is designed and intended to prevent property deterioration and neighborhood blight in designated ~~areas~~ rental inspection districts and to promote safe, decent and sanitary residential rental dwelling units for citizens by requiring proper building maintenance and continued compliance with applicable building regulations.

#### **Sec. 11-162. Definitions.**

(a) Generally. Certain words and phrases used in this division shall have the meanings prescribed to them by this section, except in the instances where the context clearly indicates a different meaning.

(b) Building maintenance official. The officer or other designated authority charged with the administration and enforcement of this ordinance and the USBC Uniform Statewide Building Code or a duly authorized representative.

(c) Certificate of compliance. A certificate of compliance is a written document issued by the inspections division confirming that a residential rental dwelling unit has been inspected. A certificate of compliance will be issued after a residential rental dwelling unit has been inspected by the inspections division and has no violations outstanding. Once a certificate of compliance has been issued the residential rental unit may be rented.

~~(d) Certificate of registration. A certificate of registration is a written document issued by the inspections division confirming that a rental property has been properly registered as required by Section 11-164 of this~~

~~division. The building official will issue a certificate of registration after the inspections division has received a completed registration form and accompanying certification that the property meets the minimum habitable standards. A certificate of registration will be issued in place of a certificate of compliance where a rental dwelling unit has not been inspected by City of Lynchburg inspectors. The unit may be rented.~~

~~(de) Dwelling unit. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A building or structure or part thereof that is used for a home or residence by one or more persons who maintain a household.~~

~~(ef) Inspections division. The section of the department of community planning and development responsible for enforcement of the Uniform Statewide Building Code. property maintenance code. of the City of Lynchburg.~~

~~(fg) Minimum habitable standards. The requirements for compliance as outlined in Part III, USBC, Maintenance of Existing Structures, Part IV, USBC, Technical Amendments, and Chapters 3 through 7 of the International Property Maintenance Code, as adopted by the Uniform Statewide Building Code Virginia Department of Housing and Community Development.~~

~~(gh) Owner. Shall mean the person or persons shown on the current real estate assessment books or current real estate assessment records. An owner shall include ~~The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee or lessee in control of a building or structure.~~~~

~~(hi) Property. The word "property" shall mean dwelling units which are leased or rented in whole or in part, to tenants for valuable consideration. The word "property" shall include residential rental dwelling units occupied under a lease/purchase agreement.~~

~~(i) Residential rental dwelling unit. A dwelling unit that is leased or rented to one or more tenants. However, a dwelling unit occupied in part by the owner thereof, shall not be construed to be a residential rental dwelling unit unless a tenant occupies a part of the residential rental dwelling unit which has its own cooking and sleeping areas, and a bathroom.~~

~~(j) USBC. Virginia Uniform Statewide Building Code.~~

### **Sec. 11-163. ~~Effective date and applicability~~ Designation of rental inspection districts.**

~~The city council finds that (i) there is a need to protect the public health, welfare and safety of the occupants of residential rental dwelling units inside the rental inspection districts that are designated below; and (ii) the residential rental dwelling units within the rental inspection districts that are designated below are either (a) blighted or in the process of deteriorating, or (b) the residential rental dwelling units are in need of inspection by the inspections division to prevent deterioration, taking into account the number, age and condition of the residential rental dwelling units inside the rental inspection districts designated below, and (iii) the inspection of residential rental dwelling units inside the rental inspection districts designated below is necessary to maintain safe, decent and sanitary living conditions for tenants and other residents living in the rental inspections districts designated below. In order to protect the public health, safety and welfare~~  
~~Therefore, the areas described in this section are hereby designated as conservation and rehabilitation areas rental inspection districts as provided by Section 36-105.1:1 of the Code of Virginia for the purpose of conducting periodic inspections at specific time intervals in order to determine that the buildings are in compliance with current building code regulations. The provisions of this division shall be applicable to all residential rental dwelling units, whether occupied or not, that are located in the following areas of the city:~~

- (a) That area of the city designated as census tract #4 by the 2000 Census Data.
- (b) That area of the city designated as census tract #5.00 by the 2000 Census Data.
- (c) That area of the city designated as census tract #6 by the 2000 Census Data.
- (d) That area of the city designated as census tract #7 by the 2000 Census Data.
- (e) That area of the city designated as census tract #11 by the 2000 Census Data.
- (f) That area of the city designated as census tract #12 by the 2000 Census Data.
- (g) That area of the city designated as census tract #13 by the 2000 Census Data.

The census tracts identified above encompass that area of the city beginning at the eastern corporate limit of the city, thence northwest along the James River and the corporate limits of the city to the Norfolk Southern Railway tracks near Riverside Park, thence south along said tracks to Blackwater Creek, northwest along Blackwater Creek to an unnamed tributary creek, along said tributary southwest to the intersection of Page Street and Hillcrest Avenue, northwest on Page Street to Tate Springs Road following said road southeast to Langhorne Road; continuing on Langhorne Road southeast to Memorial Avenue, southwest on Memorial Avenue to Fort Avenue continuing northeast on said road to its intersection with Rutherford Street, continuing on Rutherford Street southeast to its intersection with Craighill Street, thence southeast on Craighill Street to its intersection with Edley Place, continuing southeast on Edley Place to its intersection with the Norfolk Southern Railway tracks, south along the said tracks to a railroad intersection, continuing southeast along Norfolk Southern Railway tracks to their intersection with the southeastern corporate limits of the city; thence northeast along the corporate limits of the city to the point of beginning.

~~The areas of the city described above that were previously designated as rehabilitation or conservation area by resolutions adopted by the city council on September 12, 1978, October 23, 1979, January 13, 1981 and October 10, 1989 shall keep such designations. The remaining areas of the city that are described above are hereby designated as conservation areas.~~

An individual residential rental dwelling unit outside of the above designated rental inspection districts will be subject to the rental property inspection ordinance based upon a separate finding for each individual dwelling unit by city council that (i) there is a need to protect the public health, welfare and safety of the occupants of that individual residential rental dwelling unit; (ii) the individual residential rental dwelling unit is either (a) blighted or (b) in the process of deteriorating; or (iii) there is evidence of violations of the building code that affect the safe, decent and sanitary living conditions for tenants living in such individual residential rental dwelling unit.

#### **Sec. 11-164. Registration of rental property required.**

~~(a) No owner, managing agent, or other person in control of any dwelling unit located in the areas covered by this division shall make such property available as rental property until said dwelling unit shall have been registered with the building maintenance official prior to occupancy. The owner or agent shall certify on a registration form provided by the building maintenance official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the rental property to be registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. Receipt of~~

~~this certification shall be evidenced by a certificate of registration issued by the building maintenance official and to be displayed in the rental unit.~~

~~(b) Except in the case of an emergency involving a threat to life and property, as determined by the building maintenance official, no electric power company or gas company shall commence electrical or gas service to a dwelling or dwelling unit subject to this division, or continue service unless or until a valid certificate of registration has been issued for such property.~~

**Sec. 11-165. ~~Notice by owner, etc.~~ Notification by owners of dwelling units to locality.**

(a) On or before January 1 of each year, and within sixty (60) days of the transfer of ownership or a change in the managing agent of any residential rental dwelling unit, the owner or managing agent of any residential rental dwelling unit, or a duly authorized representative acting on behalf of the owner or managing agent, shall notify the inspections division in writing, of any residential dwelling units that they own or manage in any of the city's designated rental inspection districts. The inspections division is authorized to develop a form for such purposes. No fee shall be charged for the notification required pursuant to this section.

~~(ab) On or before January 1 of each year, and within sixty (60) days of the transfer of ownership or a change in the managing agent of any rental dwelling unit, the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall furnish the building maintenance official, in writing, with a registration renewal form provided by the building maintenance official for all rental properties that they own or manage in those areas of the city that are covered by this division.~~

(b) No owner, managing agent, or other person in control of any residential rental dwelling unit located in the areas covered by this division shall continue to make such property available after January 1 of each year as a residential rental dwelling unit rental property until they have notified the inspections division in writing of their ownership or management of such residential rental dwelling unit and received a certificate of compliance from the inspections division. said dwelling or dwelling unit shall have been registered with the building maintenance official. The owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall certify on a renewal registration form provided by the building maintenance official that he/she has been made aware of the minimum habitable standards as outlined in Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and that the residential rental dwelling unit rental property to be rented registered meets these standards and is in compliance with these provisions and all other applicable codes, standards and ordinances. The receipt of such certification shall be evidenced by a certificate of compliance issued by the inspections division to be displayed in the residential rental dwelling unit. Such receipt of this certification compliance shall be evidenced by a certificate of registration issued by the building maintenance official to be displayed in the rental unit.

~~(c) In the event t~~ The building maintenance official inspections division shall furnishes the owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, with information forms requesting certain information regarding residential rental dwelling units rental properties. The owner or managing agent, or a duly authorized representative acting on behalf of the owner or managing agent, shall complete such forms and return them to the building maintenance official inspections division within the designated time period.

(d) It shall be a violation of this division for an owner or managing agent to fail or refuse to register any rental dwelling unit with building maintenance official or to provide false or misleading information. Any owner or managing agent of a residential rental dwelling unit or duly authorized representative acting on behalf of the owner or managing agent who fails to comply with the notice requirements of this section or

who provides false or misleading information after having been provided with personal or written notice of the notification requirements shall be liable for a civil penalty of up to fifty dollars (\$50.00). For purposes of this section, notice sent by the inspections division, by regular first class mail to the last known address of the current owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed compliance with this requirement.

**Sec. 11-166. Inspection of residential rental dwelling units properties.**

(a) The building maintenance official shall cause periodic inspections to be made of residential rental dwelling units located in those areas of the city covered by this ~~division~~ article to determine if the residential rental dwelling units are being used as residential rental dwelling units and to ensure compliance with this division the provisions of the Uniform Statewide Building Code. After such inspection, the owner and the managing agent, if any, will be provided with a list of any violations found and the date by which such violations must be corrected. The failure to correct such violations within the designated time period shall constitute a violation of this ~~division~~ article and also may result in revocation of the ~~certificate of registration~~ or certificate of compliance.

(b) Upon determination that the residential rental dwelling unit is in compliance with Part III of the Virginia Uniform Statewide Building Code, Maintenance of Existing Structures and all other applicable codes, standards and ordinances, a certificate of compliance will be issued to the owner or managing agent.

(c) Periodic inspections for a specific property under this section shall not occur more than once each calendar year.

(d) Nothing in this division shall prohibit an inspection of any residential rental dwelling unit for a possible violation of the Virginia Uniform Statewide Building Code pursuant to a complaint.

(e) If a multifamily development has more than ten (10) residential rental dwelling units, in the initial and periodic inspections, the inspections division shall inspect only a sampling of the residential rental dwelling units, of not less than two (2) and not more than ten percent (10%) of the residential rental dwelling units, of a multifamily development, which includes all of the multifamily buildings which are part of that multifamily development. If upon inspection of the sampling of residential rental dwelling units violations of the building code are found that affect the safe, decent and sanitary living conditions of tenants, the inspections division may inspect as many residential rental dwelling units as necessary to enforce the building code.

(f) After the initial or periodic inspection of a residential rental dwelling unit, the inspections division has the authority under the building code to require the owner of the residential rental dwelling unit to submit to such follow-up inspections of the residential rental dwelling unit as the inspections division deems necessary, until such time as the residential rental dwelling unit is brought into compliance with the provisions of the building code that affect the safe, decent and sanitary living conditions for the tenants.

(g) After the initial or periodic inspection of a residential rental dwelling unit for compliance with the building code, provided that there are no violations of the building code that affect the safe, decent and sanitary living conditions for the tenants of such residential rental dwelling unit, the inspections division shall provide, to the owner of such residential rental dwelling unit, an exemption from the rental property inspection ordinance for four (4) years. Upon the sale of a residential rental dwelling unit, the inspections division may perform a periodic inspection, subsequent to such sale. If a residential rental dwelling unit has been issued a certificate of occupancy within the last four (4) years, an exemption shall be granted for a minimum period of four (4) years from the date of issuance of the certificate of occupancy by the inspections division. If the

residential rental dwelling unit becomes in violation of the building code during the exemption period, the inspections division may revoke the exemption previously granted under this section.

#### **Sec. 11-167. Code-enforcement inspection fees.**

~~There shall be an code-enforcement inspection fee paid annually to cover the cost of the registration and initial, follow-up, and periodic inspection's of each residential rental dwelling unit located in those areas of the city covered by this division article. For multi-family developments the inspections division shall not charge a fee for more than ten (10) residential rental dwelling units, unless violations of the building code are found affecting the safe, decent and sanitary living conditions for tenants of such multi-family development, the inspections division may inspect as many residential rental dwelling units as necessary to enforce the building code, in which case, the fee shall be based upon a charge per residential rental dwelling unit inspected. When an inspection is performed as a result of a periodic inspection or a complaint, there shall be no additional code enforcement charge for this inspection. In the event any repairs or corrections are deemed necessary and a second inspection is required, there shall be no additional code enforcement charge for the second follow-up inspection. In the event a third or subsequent inspection is required, the owner shall be charged a reinspection fee for each inspection of a dwelling unit. The code enforcement and reinspection inspection fees will be as established by city council from time to time by resolution and a copy of the schedule of fees will be kept in the office of the inspections division of community planning and development and shall be available for review upon request. No certificate of compliance shall be issued until all code-enforcement inspection fees have been paid and all violations have been corrected.~~

#### **Sec. 11-168. Entry.**

For the purpose of enforcing provisions of this division, the building maintenance official, or his duly authorized agent, shall have the right to inspect any ~~dwelling or~~ residential rental dwelling unit within designated areas identified in Section 11-163 of this division at any reasonable time. No inspection shall be conducted without the consent of the tenant, occupant, property owner or managing agent (if the property owner or managing agent have reserved a right of re-entry in order to inspect the premise) or pursuant to a duly issued administrative inspection warrant or as authorized by other lawful means. In the event the building maintenance official, or his duly authorized agents shall be denied access to a ~~dwelling or~~ residential rental dwelling unit, he or she may apply for an administrative ~~administrator~~ inspection warrant in order to gain access to the premises. It shall be a violation of this division for any owner, managing agent, tenant, or other person, to deny the building maintenance official, or his duly authorized agent, access to any ~~dwelling or~~ residential rental dwelling unit within the areas covered by this division after the building maintenance official, or his duly authorized agent have obtained an administrative inspection warrant for such ~~dwelling or~~ residential rental dwelling unit.

#### **Sec. 11-170. Violations.**

(a) It shall be unlawful for any owner or managing agent to fail to comply with the requirements contained in this ~~division~~ article and to fail to comply with the provisions of the Uniform Statewide Building Code.

~~(b) Any person failing to comply with the requirements of this division shall be punishable by a fine of not more than two thousand five hundred dollars (\$2,500.00). Unless otherwise provided herein, the penalties imposed for a violation of this article shall be the penalties provided in Section 36-106 of the Code of Virginia. Each day such violation continues shall constitute a separate punishable offense.~~

(c) If any violation remains uncorrected at the time of conviction, the court shall order the violator to abate or remedy the violation and to bring the property into compliance with the uniform statewide building code. Except as otherwise provided by the court for good cause shown, any such violator shall abate or remedy the violation within six (6) months of the date of conviction. Each day during which the violation continues after the court-ordered abatement period has ended shall constitute a separate offense.

#### **Sec. 11-171. Enforcement.**

(a) The building maintenance official and his authorized agents are hereby empowered to enforce all of the provisions of this division, to act pursuant to the authority contained herein and to perform all the duties required thereby. The building maintenance official may establish such administrative procedures as may be necessary for the administration and enforcement of this article.

(b) The provisions of this article shall not, in any way, alter the rights and obligations of landlords and tenants pursuant to the applicable provisions of Chapter 13 (Sections 55-217 et seq.) or Chapter 13.2 (Sections 55-248.2 et seq.) of Title 55 of the Code of Virginia.

(c) The provisions of this article shall not alter the duties or responsibilities of the inspections division to enforce the provisions of the uniform statewide building code.

(d) Appeals concerning the application of the rental property inspection program shall be heard by the board of building code appeals as provided in sections 11-141 through 11-151 of the city code.

#### **Sec. 11-172. Temporary waiver.**

Any owner or managing agent whose ~~rental property~~ residential rental dwelling unit is inspected and found not to be in compliance with the code may petition the building maintenance official, in writing, for a temporary waiver of compliance. The petition shall be on a form provided by the building maintenance official and shall contain the information therein requested and which may be reasonably necessary to its decision, and shall include a written statement signed by the applicant, acknowledging the actions needed, specifying the anticipated date of beginning and completion of the work, and if known, the name of the person or company that will perform the work. If the building maintenance official finds that:

(a) The delay in the correction of the violation is reasonable, taking into the consideration the availability of qualified persons to do the work and the current work load; and

(b) The work can be reasonably undertaken and completed while the premises are occupied or that appropriate provision has been made for housing the tenant elsewhere while ~~when~~ the dwelling or residential rental dwelling unit will not be habitable because of the work of correcting violations; the building official may issue a temporary waiver of compliance which will allow a reasonable period of time to achieve compliance. This period shall not be less than thirty (30) days nor more than sixty (60) days. The applicant shall, on or before such date, request an inspection and pay any ~~code enforcement~~ inspection fee that may be required by Section 11-166 of this article ~~division~~.

(c) No waiver granted under this section shall be valid unless in writing and signed both by the building maintenance official or his designee and the applicant

2. That this ordinance shall become effective upon its adoption.

Adopted:

Certified: \_\_\_\_\_  
Clerk of Council

037LOrd